IN THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF NORTH CAROLINA ASHEVILLE DIVISION 1:06 CR 165-01

UNITED STATES OF AMERICA,)	
)	
Vs.)	ORDER
)	
DANNY WILLIAM ALLMAN,)	
Defendant.)	
)	

THIS CAUSE coming on to be heard and being heard before the undersigned, upon a motion filed by defendant's counsel entitled, "Motion for Detention Hearing". On August 25, 2006 the undersigned entered an order detaining the defendant but ordered that the defendant would be allowed to complete the Jail Based Inpatient Treatment Program and upon his completion, that defendant's counsel would be allowed to file a motion asking the court to reconsider the detention of the defendant based upon a change of circumstances and it appearing to the court at the call of this matter on for hearing that the defendant was present with his counsel, William D. McDowall and that the Government was present through Assistant United States Attorney Richard Edwards, and from the evidence offered and the records in this cause, the court makes the following findings:

Findings. On August 25, 2006 the undersigned entered an order detaining the defendant. In the order the undersigned made detailed findings of fact regarding the factors as set forth under 18 U.S.C. § 3142(g), that being the statute which sets forth the factors that the court is to consider in regard to detaining a defendant. The undersigned has further considered the evidence offered and the completion by the defendant of the Jail Based

Inpatient Treatment Program and the recommendation of the United States Probation Office contained in their memorandum filed on October 13, 2006 and has again reviewed the evidence as it relates to 18 U.S.C. § 3142(g). The court hereby incorporates the order filed on August 25, 2006 and specifically the findings made therein. The undersigned has considered the fact that the defendant has completed the Jail Based Inpatient Treatment Program and commends him for his work in that regard and hopes that it will of benefit to the defendant. However, in regard to the release of the defendant the court must consider and give greater weight to the lengthy criminal record of the defendant, particularly the convictions for two counts of assault with a deadly weapon and the previous conviction for felonious possession with intent to manufacture, sell and deliver a schedule II controlled substance and felony possession of cocaine. The court also has given consideration to the fact that the defendant was armed and was making efforts to use a firearm when he was arrested on May 13, 2006. In the previous order, the undersigned made the following finding: "counsel should be advised, however, that due to the defendant's three felony convictions and his previous criminal record for violence it is unlikely that this court will release the defendant".

Based upon a complete review and reconsideration of the matter, it is determined that the release of the defendant would create a danger to any other person or the community. The court is fearful, based upon the criminal record of the defendant, that the defendant's release would create a danger to any other person or the community. As a result, the

undersigned has determined to enter an order denying the defendant's "Motion for Detention Hearing".

ORDER

IT IS, THEREFORE, **ORDERED** that the defendant's "Motion for Detention Hearing" is hereby **DENIED** and the defendant continue to be detained pending further proceedings in this matter.

Signed: October 27, 2006

Dennis L. Howell

United States Magistrate Judge